

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: NATIONAL)
5 PRESCRIPTION) MDL No. 2804
6 OPIATE LITIGATION)
7 _____) Case No.
8) 1:17-MD-2804
9)
10 THIS DOCUMENT RELATES) Hon. Dan A.
11 TO ALL CASES) Polster
12)

13 MONDAY, OCTOBER 22, 2018

14 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
15 CONFIDENTIALITY REVIEW

16 - - -

17 Videotaped deposition of Sean
18 Barnes, held at the offices of BARTLIT BECK
19 HERMAN PALENCHAR & SCOTT LLP, 54 West
20 Hubbard, Suite 300, Chicago, Illinois,
21 commencing at 9:03 a.m., on the above date,
22 before Carrie A. Campbell, Registered
23 Diplomate Reporter, Certified Realtime
24 Reporter, Illinois, California & Texas
25 Certified Shorthand Reporter, Missouri &
Kansas Certified Court Reporter.

- - -

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5 did you ever receive any training or
6 education on the scope of prescription drugs
7 being abused?

8 MS. SWIFT: Object to the form.

9 THE WITNESS: No. In IT,
10 again, we're not the experts. We
11 gather the data from the experts.

12 QUESTIONS BY MR. GADDY:

13 Q. Okay. But did anybody at
14 Walgreens provide any training or education
15 on prescription drugs being abused within the
16 country?

17 MS. SWIFT: Object to the form.

18 THE WITNESS: No, no direct
19 education was provided to me as an IT
20 person.

21 QUESTIONS BY MR. GADDY:

22 Q. Okay. Did Walgreens provide
23 you any education or training on the scope of
24 individuals within the US overdosing and
25 dying from prescription medication?

1 A. Again, as my personal role in
2 IT, no specific education.

3 Internally, there's newsletters
4 making people aware about the epidemic,
5 steps, according to those letters, that were
6 directly -- steps the company was taking and
7 generally asking people to be alert, but in
8 my role as IT, no direct training.

9 Q. When did you begin getting
10 newsletters within Walgreens?

11 A. Various newsletters have
12 been -- different types have been published
13 since I started.

14 Q. Okay. Did you get a newsletter
15 within Walgreens regarding the \$80 million
16 settlement that Walgreens paid to the DEA?

17 A. There was a communication about
18 it. I don't know how I would characterize
19 the content, whether it was a newsletter or a
20 web article or whatever, again, because
21 there's multiple types. And I don't remember
22 how you categorized it, but just that there
23 was an agreement with the DEA on that issue.

24 Q. When do you believe you began
25 getting newsletters from Walgreens related to

1 the abuse of prescription narcotics within
2 the US?

3 MS. SWIFT: Objection to the
4 extent it mischaracterizes the
5 testimony.

6 THE WITNESS: I don't believe
7 that the -- that would be the way it
8 was worded. It was more -- you know,
9 a lot of these newsletters are general
10 for all employees to say here's -- it
11 tries to bring people together in
12 Walgreens so you know a little bit
13 about other job functions that were --
14 what we're doing as a company to be
15 responsible.

16 So it was more -- you might
17 hear how I characterized it earlier.
18 You might hear about on the news all
19 this opioid epidemic and here's what
20 we're doing as a company, is how I'd
21 characterize it.

22 QUESTIONS BY MR. GADDY:

23 Q. But you didn't receive any
24 training or education from Walgreens on those
25 issues?

1 A. No.

2 (Walgreens-Barnes Exhibit 9

3 marked for identification.)

4 QUESTIONS BY MR. GADDY:

5 Q. I'll show what you we'll mark

6 as Barnes 9. You see on the first page at

7 the top that says this is from the United

8 States General Accounting Office?

9 It's a report to Congressional
10 requesters.

11 You see that?

12 A. I do.

13 Q. Do you see it's dated on the
14 left-hand side there December 2003?

15 A. I do.

16 Q. The title of the document is,
17 "Prescription drugs: OxyContin abuse and
18 diversion and efforts to address the
19 problem."

20 Do you see that?

21 A. I do.

22 Q. And this document that has a
23 December 2003 date, that would have been just
24 before you started at Walgreens, correct?

25 A. Yeah, December -- given that I

1 started in January of 2004, yes.

2 Q. Okay. When you started with
3 Walgreens in 2004, you agree that Walgreens
4 was a distributor of Schedule II narcotics?

5 A. To my knowledge, yes, that was
6 the case. I didn't know that at the time,
7 but later on as I was asked to help out with
8 some compliance apps, yes.

9 Q. Okay. As you sit here today,
10 you know that in 2004 Walgreens was a
11 distributor of Schedule II narcotics?

12 A. Can I swear that that was
13 occurring? No. I was led to believe that
14 these systems had existed for a while since I
15 support systems and had data. So I could
16 deduce that that was likely the case, but I
17 have no personal knowledge.

18 Q. And do you also have an
19 understanding that one of the drugs, one of
20 the Schedule II drugs, that Walgreens
21 distributed and dispensed in their pharmacies
22 was OxyContin?

23 A. Now or then?

24 Q. As you sit here today, do you
25 have an understanding that OxyContin is a

1 drug that Walgreens has distributed from its
2 distribution centers and dispensed from its
3 pharmacies?

4 A. I don't have any personal
5 knowledge on that dispensing from either the
6 pharmacy or from the distribution center, but
7 it's my general, again, secondhand knowledge.

8 Q. Is that yes?

9 A. That Walgreens has distributed
10 from both, no longer from our DCs, and
11 continues to do so from our pharmacies.

12 Q. Okay. Walgreens used to
13 distribute OxyContin, no longer does.

14 Has always dispensed OxyContin,
15 correct?

16 MS. SWIFT: Object to the form
17 of the question.

18 THE WITNESS: Yeah, the
19 specific drug -- I was speaking as
20 secondhand knowledge of a general drug
21 class and type. I don't know
22 OxyContin -- I don't know if that's
23 the name brand or the generic form,
24 but in general.

25 At a high level, I believe

1 we've dispensed and continue to
2 dispense from the stores and no longer
3 from the warehouse or DCs.

4 QUESTIONS BY MR. GADDY:

5 Q. Okay. And if you turn a couple
6 pages in, on the bottom of page you'll see it
7 says page 1.

8 A. I do.

9 MS. SWIFT: I think that's
10 page I.

11 THE WITNESS: Oh.

12 QUESTIONS BY MR. GADDY:

13 Q. Sorry, yeah, not roman
14 numerals, but...

15 A. Okay. Thank you.

16 Q. You see at the top of the page
17 there's a date, December 23, 2003?

18 A. I do.

19 Q. And you see that this is
20 addressed to three members of Congress -
21 Honorable Frank Wolf, James Greenwood and
22 Harold Rogers - all identified as being
23 within the House of Representatives?

24 A. I do.

25 Q. If you'd turn to the next page

1 for me, please.

2 A. Okay.

3 Q. In the paragraph that starts in
4 the middle of the page, it says, "In early
5 2000, media reports began to surface in
6 several states that OxyContin was being
7 abused, that is, used for nontherapeutic
8 purposes or for purposes other than those for
9 which it was prescribed, and illegally
10 diverted."

11 Do you see that?

12 A. I do.

13 Q. And after the word "diverted,"
14 you see there's a footnote there, correct?

15 A. I do.

16 Q. If we go down to the bottom of
17 page and look at that footnote 4, it says,
18 "Prescription drug diversion can involve such
19 activities as doctor shopping by individuals
20 who visited" -- excuse me, "who visit
21 numerous physicians to obtain multiple
22 prescriptions, prescription forgery and
23 pharmacy theft."

24 Do you see that?

25 A. I do.

1 Q. Do you agree those are all
2 issues that Walgreens has dealt with over
3 time as it relates to Schedule II narcotics?

4 MS. SWIFT: Object to the form.

5 THE WITNESS: I can't agree. I
6 have no personal knowledge of that.

7 QUESTIONS BY MR. GADDY:

8 Q. Going back up to the main
9 paragraph, it says, "According to FDA and the
10 Drug Enforcement Administration, DEA, the
11 abuse of OxyContin is associated with serious
12 consequences, including addiction, overdose
13 and death."

14 Do you see that?

15 A. I do.

16 Q. It says, "When OxyContin was
17 approved, the federal government classified
18 it as a Schedule II controlled substance
19 under the Controlled Substance Act because it
20 has a high potential for abuse and may lead
21 to severe psychological or physical
22 dependence."

23 Do you see that?

24 A. Yes.

25 Q. Did anybody at Walgreens ever

1 provide you with any information, education
2 or training when you started in 2004 that
3 these types of reports were being made to
4 Congress a year earlier?

5 A. No, not in my role as an IT
6 person.

7 Q. Okay. Who supported the
8 compliance division of Walgreens, correct?

9 A. You asked in 2004, and I did
10 not at that time.

11 Q. Okay. In 2006 you did?

12 A. I would say roughly.

13 Q. Okay. It goes on to say, "DEA
14 has characterized the pharmacological effects
15 of OxyContin and its active ingredient,
16 oxycodone, as similar to those of heroin."

17 Do you see that?

18 A. Yes.

19 Q. Did anybody at Walgreens, at
20 any time while you were serving in a support
21 to a compliance role from 2006 to 2015,
22 provide you any education or training on how
23 the DEA equivalized oxycodone and heroin?

24 MS. SWIFT: Object to the form.

25 THE WITNESS: Can you please

1 restate that -- I didn't follow that
2 question.

3 QUESTIONS BY MR. GADDY:

4 Q. Sure.

5 Did anybody at Walgreens ever
6 provide you with any training or education on
7 this statement that was provided to Congress
8 in 2003, that the DEA was equating the
9 impacts of oxycodone with heroin?

10 A. Not to my knowledge. Not in
11 IT.

12 Q. It says, "Media reports
13 indicated that abusers were crushing
14 OxyContin tablets and snorting the powder or
15 dissolving it in water and injecting it to
16 defeat the intended controlled release effect
17 of the drug and obtain a rush or high through
18 the body's rapid absorption of oxycodone."

19 Do you see that?

20 A. Yes.

21 Q. Okay. And did anybody at
22 Walgreens provide you any education or
23 training on those issues as it related to
24 your support of the compliance division
25 within Walgreens?

1 MS. SWIFT: Object to the form.

2 THE WITNESS: I'm not in the
3 compliance division at Walgreens to --
4 brief correction there. We support
5 applications in IT. We're --
6 thousands of IT people, thousands of
7 business people. We specialize. So
8 we get information from the
9 specialists in order to support.

10 We don't -- you know, we take
11 compliance very seriously. That's why
12 we provide so many people on it. But
13 we give training to the people -- my
14 experience is the training I've been
15 given is specific to my individual
16 needs.

17 QUESTIONS BY MR. GADDY:

18 Q. Okay. Prior to today, have you
19 ever seen the statement that DEA has
20 characterized pharmacological effects of
21 OxyContin and its active ingredient,
22 oxycodone, as similar to those of heroin?

23 Have you ever heard of that
24 concept before today?

25 A. I have not heard it in my

1 professional capacity. I think I've read it
2 in various news organizations.

3 Q. Okay. Nobody at Walgreens has
4 ever made you aware of that?

5 A. I don't -- honestly, I'm trying
6 to think of a specific time. There's general
7 conversations that will go along on a
8 project, and, you know, you might discuss in
9 general but not specifically.

10 Q. In your role of supporting
11 compliance, you talked a little bit about how
12 you supported some of the ARCOS reporting
13 that was done.

14 Did you have any involvement in
15 supporting divisions within Walgreens that
16 were charged with making suspicious order
17 reports?

18 A. No.

19 Q. Okay. Ever?

20 A. Repeat your question just so I
21 can be sure.

22 Q. Sure.

23 Did you have any involvement in
24 supporting divisions within Walgreens that
25 were charged with making suspicious order

1 reports?

2 A. Have I had any encounters or
3 dealings with any group that was in charge of
4 making suspicious order reports; is that your
5 question?

6 Q. I'm asking if that was ever
7 within the scope of your duties.

8 A. I might need you to repeat it
9 again because I think you're asking have I
10 worked with groups that might do that, and
11 that answer would be yes, but my duties do
12 not include supporting those applications.

13 Q. Okay. Well, let me ask it one
14 more time just to make sure.

15 A. Okay.

16 Q. At any time in your employment
17 with Walgreens, did your duties ever include
18 supporting divisions within Walgreens that
19 were charged with making suspicious order
20 reports?

21 MS. SWIFT: Object to the form.

22 THE WITNESS: The question -- I
23 would support the groups that do that,
24 but there's another IT team that
25 supports the suspicious drug reporting

1 applications, I believe. We do not do
2 that, but -- we do also have
3 involvement with that group, but not
4 for that purpose.

5 QUESTIONS BY MR. GADDY:

6 Q. Okay.

7 A. That business group, to
8 clarify.

9 Q. Okay. So who's in that
10 business group?

11 A. I'm sorry?

12 Q. Who's in that business group?

13 MS. SWIFT: Object to the form.

14 THE WITNESS: Currently that
15 would be Tasha Polster and her
16 reports, Patricia Daugherty.

17 QUESTIONS BY MR. GADDY:

18 Q. You're talking about the
19 pharmaceutical integrity team?

20 A. RX integrity, yes.

21 Q. Okay. Prior to --

22 A. I believe, again, it's not
23 my -- that's the team I work with. I've
24 heard they support that, but since I don't
25 support that application, I'm making somewhat

1 of an assumption.

2 Q. I understand.

3 Prior to the formation of the
4 RX integrity team, what -- who was in the
5 business group that was charged with
6 reporting suspicious orders?

7 A. I do not know.

8 Q. What is -- who was in charge of
9 the IT team that supports the suspicious
10 order monitoring program now?

11 A. That supports it currently?

12 I believe -- no direct
13 knowledge, but I believe that's Steve Bamberg
14 is the IT manager, my peer.

15 Q. And Steve's the head of the IT
16 unit that supports the suspicious order
17 reporting currently?

18 MS. SWIFT: Object to the form.

19 THE WITNESS: Again, that's my
20 understanding. It's, you know,
21 third -- you know, secondhand
22 knowledge.

23 QUESTIONS BY MR. GADDY:

24 Q. Okay. Who else works with
25 Steve on that team?

1 A. I actually don't know any of
2 his reports, anyone that reports to him
3 offhand. No.

4 Q. So prior to Tasha Polster and
5 her RX integrity group being in charge of
6 reporting suspicious orders, when that team
7 was formed, you don't know who was in charge
8 of reporting suspicious orders prior to that?

9 A. No, there's no reason for me to
10 have known since we didn't support that
11 application.

12 Q. Okay. Do you offer any support
13 to any of the loss prevention divisions or
14 departments?

15 A. Not directly. The -- I mean,
16 support's a funny thing because people can
17 come and ask you a question in a large
18 organization and just ask for input, but
19 directly it's not one of our day-to-day
20 functions.

21 MR. GADDY: Okay. Do you want
22 to take a break?

23 THE WITNESS: Yeah.

24 MR. GADDY: I saw you
25 stretching.

1 THE WITNESS: Thank you.

2 VIDEOGRAPHER: We're going off
3 the record at 11:13.

4 (Off the record at 11:13 a.m.)

5 VIDEOGRAPHER: We're back on
6 the record at 11:28.

7 QUESTIONS BY MR. GADDY:

8 Q. Mr. Barnes, I think just before
9 the break you testified that you did not
10 support any of the divisions that were
11 charged with suspicious order monitoring at
12 Walgreens, correct?

13 A. I was trying to make a
14 distinction between we do support them but
15 not for suspicious drug monitoring.

16 Q. Okay.

17 A. Ordering.

18 Q. What do you support them for?

19 A. They would be the SMEs or the
20 teams we go to for CSOS ordering, ARCOS,
21 things like that, but there's another IT team
22 that I'm told that supports the suspicious
23 monitoring.

24 Q. Okay. Do you have any
25 understanding of Walgreens' suspicious order

1 monitoring or reporting obligations under the
2 CSA?

3 A. I don't know what CSA is, so,
4 no, I do not.

5 Q. Okay. That's fair.

6 Are you familiar with the
7 Controlled Substance Act?

8 A. I've heard it mentioned, but
9 I -- no, I would have to say familiar, no.

10 Q. Okay. So are you familiar with
11 Walgreens' suspicious order reporting
12 obligations under the Controlled Substance
13 Act?

14 A. Am I familiar with Walgreens'
15 reporting obligations under the suspicious --

16 Q. Under the Controlled Substance
17 Act?

18 A. Controlled Substance Act.

19 Not -- no, I -- directly or
20 indirectly, no.

21 (Walgreens-Barnes Exhibit 10
22 marked for identification.)

23 QUESTIONS BY MR. GADDY:

24 Q. Okay. I'm going to show you
25 what we'll mark as Barnes Exhibit Number 10.

1 Do you recognize this document?

2 A. Not offhand.

3 Q. Okay. Have you ever seen this
4 before?

5 A. Are you asking for a general
6 opinion or for me to read it? Because I
7 don't believe --

8 MS. SWIFT: He's just asking if
9 you've seen it.

10 THE WITNESS: I don't believe
11 so.

12 QUESTIONS BY MR. GADDY:

13 Q. Okay. And I'll represent to
14 you that this document relates to suspicious
15 order monitoring, and you're telling me that
16 that's not part of the scope of your duties
17 or nor has it ever been while you were at
18 Walgreens, correct?

19 A. Correct.

20 (Walgreens-Barnes Exhibit 11
21 marked for identification.)

22 QUESTIONS BY MR. GADDY:

23 Q. I'll show you what I'm going to
24 mark as Exhibit Number 11.

25 Do you see at the top left of

1 this, this is a Department of Justice
2 document?

3 A. Okay. Yes.

4 Q. And that just below the seal
5 there's a date, Friday, May 2, 2008.

6 Do you see that?

7 A. I do.

8 Q. Okay. And the title of this
9 document is "McKesson Corporation agrees to
10 pay more than 13 million to pay claims that
11 it failed to report suspicious sales of
12 prescription medications."

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7 Q. The next sentence says,
8 "Cardinal's negligent conduct contributed to
9 our nation's serious pharmaceutical abuse
10 problem. The substantial civil penalty
11 underscores DEA's determination to prevent
12 pharmaceutical diversion and protect the
13 public health and safety by continuing to
14 hold companies responsible if they fail to
15 fulfill their obligations under the
16 Controlled Substance Act."

17 Do you see that?

18 A. I do.

19 Q. And again, did anybody at
20 Walgreens have any conversations with you or
21 provide you any training or education in your
22 role as serving a compliance function as it
23 relates to the controlled substance ordering
24 system at Walgreens?

25 MS. SWIFT: Object to the form.

1 THE WITNESS: No, they would
2 not come to me with news such as this.
3 We fulfill the IT functionality and we
4 specialize. It would be like me going
5 to them with the latest RAM technology
6 or memory technology.

7 It's -- while it's serious news
8 and -- they just would come to us with
9 what they want changed. They try to
10 be efficient.

11 QUESTIONS BY MR. GADDY:

12 Q. You see the very bottom line on
13 that page says, "Hydrocodone is the most
14 commonly diverted and abused controlled
15 pharmaceutical in the United States."

16 Do you see that?

17 A. I do.

18 Q. Did you have an understanding
19 of that back in 2008?

20 A. I did not. Assuming, you know,
21 that that's the truth.

22 Q. Has anybody at Walgreens ever
23 made it clear to you that hydrocodone is the
24 most commonly abused controlled
25 pharmaceutical in the US?

1 A. Not to my knowledge, offhand.
2 (Walgreens-Barnes Exhibit 21
3 marked for identification.)

4 QUESTIONS BY MR. GADDY:

5 Q. Let me show you what I'm going
6 to mark as Barnes Exhibit 21.

7 And do you see at the bottom
8 that this is another e-mail that gets
9 forwarded to you by Caroline Rawa?

10 A. I do.

11 Q. And if you start down there,
12 you see that it's another press release from
13 DEA that says, "DEA publishes proposal to
14 reschedule hydrocodone"?

15 A. I do.

16 Q. And the next page it says,
17 "Today, the US DEA published in the Federal
18 Register a notice of proposed rulemaking to
19 move hydrocodone combination products, HCPs,
20 from Schedule III to Schedule II."

21 Do you see that?

22 A. I do.

23 Q. The next paragraph it says,
24 "The Controlled Substance Act places
25 substances with accepted medical uses into

1 one of four schedules, with the most
2 potentially harmful and abusable medications
3 being placed in Schedule II."

4 Do you see that?

5 A. I do.

6 Q. Is that consistent with your
7 understanding of how the DEA classifies
8 controlled substances?

9 MS. SWIFT: Object to the form.
10 Foundation.

11 THE WITNESS: I don't really
12 have any basis of understanding how
13 they go about it except for in
14 general, the more controls are placed,
15 the lower the number is.

16 QUESTIONS BY MR. GADDY:

17 Q. If you go to the next
18 paragraph, start at the second sentence, it
19 says, "The analysis by HHS and the DEA shows
20 HCPs have a high potential for abuse, and
21 abuse may lead to severe psychological or
22 physical dependence."

23 Do you see that?

24 A. I do.

25 What is HCPs?

1 Q. Hydrocodone combination
2 products.

3 A. Okay.

4 Q. Is that sentence there
5 consistent with your understanding that
6 hydrocodone has a high potential for abuse
7 and may lead to psychological or physical
8 dependence, i.e., addiction?

9 MS. SWIFT: Object to the form.
10 Foundation.

11 THE WITNESS: That's definitely
12 what I've heard on the news.

13 QUESTIONS BY MR. GADDY:

14 Q. If you skip a sentence it says,
15 "Data and surveys from multiple federal and
16 nonfederal agencies show the extent of abuse
17 of HCPs" -- that's again hydrocodone
18 combination products.

19 A. Uh-huh.

20 Q. It says, "For example,
21 monitoring the future, surveys of 8th, 10th
22 and 12th graders from 2002 to 2011 found that
23 twice as many high school seniors used
24 Vicodin, an HCP, nonmedically, as used
25 OxyContin, a Schedule II substance, which is

1 more tightly controlled."

2 Do you see that?

3 A. I do.

4 Q. Do you recall reading this
5 press release when it was sent to you by
6 Caroline?

7 A. No, I don't.

8 Q. Do you recall receiving it?

9 A. No, I actually don't recall
10 receiving it.

11 Q. When Caroline sends to you --
12 and I'm looking in the middle of the page
13 there.

14 A. Uh-huh.

15 Q. She forwards it to you, and her
16 comment to you is, "FYI. Potential for lots
17 of CSOS orders here," with a smiley face.

18 A. Uh-huh.

19 Q. Do you see that?

20 A. I do.

21 Q. What did that mean to you?

22 MS. SWIFT: Object to the form.

23 THE WITNESS: Again, I'm not
24 remembering specifically, but seeing
25 the timeline, as I've explained in

1 other questions, is roughly around the
2 time where we changed the CSOS system
3 to fulfill signing for store orders
4 and not for -- not for bringing orders
5 into our warehouses for wholesale to
6 our stores.

7 We had a lot of problems with
8 getting the system stable to perform,
9 and we were trying to hold back the
10 number of orders and advising the
11 business to stay paper as long as
12 possible.

13 My belief is that, you know,
14 this was like a -- anytime you're
15 going through struggles together as a
16 team, you know, oh, gosh, here's going
17 to be another 10,000 orders or
18 whatever type of feeling, is my best
19 surmise of what I would think was
20 going on here.

21 QUESTIONS BY MR. GADDY:

22 Q. Okay. And Walgreens sold
23 hydrocodone in the stores at this time,
24 correct?

25 A. I don't know specifically about

1 hydrocodone.

2 Knowing -- Caroline is one of
3 my most detailed people. Knowing her, she
4 was just probably trying to make sure we're
5 aware of it and that they could hit it. And
6 I trust her to read the details on things
7 like this and call my attention to anything
8 specific, so I probably sped-read the
9 high-level topic.

10 So I don't know -- but
11 specifically back to your question, you
12 asked: Did Walgreens carry it?

13 I would assume so because I
14 think we try to carry legal drugs to
15 prescribe, but I don't have any personal,
16 direct knowledge that that was the case
17 either.

18 Q. As you sit here today, you're
19 telling me that you don't have an
20 understanding as to whether or not Walgreens
21 sold hydrocodone?

22 A. Like I said, I would assume so,
23 but as my -- it's not my specialty. It's not
24 what I do day to day. I would think we do
25 because I would think people would go to

1 other pharmacies if we didn't.

2 Q. And you respond up top, and the
3 first comment that you make is, "and lots of
4 suspicious drug orders," correct?

5 A. Correct.

6 Q. Okay. And do your job duties
7 have anything to do with suspicious drugs
8 orders?

9 A. No, they do not.

10 Q. Okay. Well, what did you mean
11 by your comment that because hydrocodone was
12 now going to be scheduled as II instead of
13 III, that you would now have lots of
14 suspicious drug orders?

15 A. Again, trying to put this in
16 context, I think this is roughly around the
17 time I probably learned a little bit about
18 suspicious drug ordering being in effect.

19 Like I said before, when I'd
20 heard of the settlement -- you have water
21 cooler conversations. I talked to people and
22 I heard that there was such a thing, so I'm
23 assuming that with that and with the
24 knowledge -- like I said, I heard that
25 Tasha's group was formed. It was just kind

1 of a -- and we were working with them closely
2 to roll out this. We were hit -- I'm kind of
3 just guessing here that that's where that
4 comment came.

5 Q. Well, I'm a little confused
6 because just a minute ago you told me that
7 you didn't know whether or not y'all sold
8 hydrocodone, but now you're making a comment
9 that because it's getting rescheduled, you're
10 going to now have a lot of suspicious drug
11 orders.

12 So can you help me understand
13 that?

14 A. Well, I think I also said I'm
15 making a lot of assumptions based on the
16 e-mail. I don't directly remember.

17 So given that, all I can do is
18 make what I don't prefer to do, is
19 assumptions, based on the evidence in front
20 of me. And that's what I can conclude, is
21 that, A, I would assume that we sold them as
22 a company that tries to provide the best
23 service and most products to our customers;
24 and B, likely having just recently learned
25 there was such a thing as suspicious drug

1 ordering, that it might apply in this case.

2 Q. Well, why would you think that
3 it might apply to hydrocodone?

4 A. Because it's a Schedule II
5 drug, and according to that article, it's
6 being moved over.

7 Q. Okay. It was not a secret to
8 you that people were abusing hydrocodone, was
9 it?

10 MS. SWIFT: Object to the form.

11 THE WITNESS: I think it's fair
12 to say that between starting to see
13 articles back then and hearing about
14 the settlement, that regardless of the
15 truth of the settlement or anything
16 around it, that there was -- you were
17 starting to see hints.

18 QUESTIONS BY MR. GADDY:

19 Q. What is the next comment that
20 you make related to the e-mail that Caroline
21 sent you?

22 A. Personal medical issues.

23 Q. Okay.

24 A. It's related to my co-pay.

25 Q. Okay. So at the time that you

1 sent this e-mail, you were filling, regularly
2 filling, 90-day supplies for the medication?

3 MS. SWIFT: Object to the form
4 of the question.

5 THE WITNESS: I don't remember
6 if they were 90-day supplies. In
7 fact, now I don't even know that you
8 can get them, but I don't remember. I
9 just know that I've had -- I had need
10 of pain medications due to a personal
11 illness that's ongoing.

12 MS. SWIFT: We've been going
13 for a more than an hour. Can we --
14 you want to take a break?

15 MR. GADDY: Yeah, now is a good
16 time.

17 VIDEOGRAPHER: We're going off
18 the record at 2:17.

19 (Off the record at 2:17 p.m.)

20 VIDEOGRAPHER: We're back on
21 the record at 2:38.

22 QUESTIONS BY MR. GADDY:

23 Q. Mr. Barnes, the last document
24 we were looking at was the -- we'd marked as
25 Barnes number 21.

1 Do you have that in front of
2 you?

3 A. I do.

4 Q. Okay. Prior to just before the
5 break, when was the last time you'd seen that
6 document?

7 A. Prior to the break, just before
8 the break, you had given it to us.

9 Q. Sure.
10 Prior to that, when was the
11 last time you'd seen it?

12 A. It was reviewed in some of
13 my -- some documents that were shown to me
14 preparing for this.

15 Q. Okay. You reviewed it in
16 preparation for the deposition?

17 MS. SWIFT: You can answer that
18 yes or no.

19 THE WITNESS: Yes.

20 QUESTIONS BY MR. GADDY:

21 Q. Okay. How much time did you
22 spend preparing for the deposition today?

23 A. For both parts of my deposition
24 or just the personal or --

25 Q. Just the personal right now.

1 A. I'd say maybe just a few hours
2 in preparation for that. More was spent on
3 the -- on 30(b)(6), I think it's called.

4 Q. Okay. When did you have the
5 opportunity to prepare for your individual
6 deposition?

7 A. Last week on a couple of days,
8 a couple hours on those days, and then
9 previously.

10 Q. Okay. How many separate
11 meetings did you have?

12 A. Three.

13 Q. I wouldn't normally have asked
14 this question, but I'm going to based on the
15 e-mail and based on the response that you
16 gave, but are you still currently taking
17 opioid medication?

18 MS. SWIFT: And I'll let him
19 answer that question, Jeff, but I'm
20 not going to let him go to -- in too
21 much detail here. Your co-counsel had
22 repeatedly instructed witnesses not to
23 answer those exact same questions.

24 THE WITNESS: I still have a
25 prescription, and I take it as needed.

1 QUESTIONS BY MR. GADDY:

2 Q. Okay. Did you take a dose
3 today?

4 A. No, I did not.

5 Q. Have you felt at any time today
6 that you were under the influence of any
7 opioid medication that you're prescribed?

8 MS. SWIFT: I'm going to object
9 to the form of the question.

10 THE WITNESS: No, I have not.

11 QUESTIONS BY MR. GADDY:

12 Q. Have you felt during the course
13 of the deposition that you needed to take a
14 dose of your prescribed medication?

15 MS. SWIFT: Object to the form
16 of the question.

17 THE WITNESS: You know, I've
18 had some pain and I've -- just because
19 of the serious nature of this, I want
20 to make sure I give the best answer.
21 Not that I even normally feel any
22 impact. But, no. I felt pain, but
23 not of any -- like needing or anything
24 like that.

25

1 QUESTIONS BY MR. GADDY:

2 Q. Okay. It hasn't impacted any
3 answers that you've given today?

4 A. No, absolutely not.

5 MR. GADDY: Mr. Barnes, at this
6 time I'm going to suspend the taking
7 of your individual deposition and
8 transition into your deposition in
9 your 30(b)(6) capacity.

10 Understand?

11 THE WITNESS: Okay.

12 Understood.

13 MS. SWIFT: How much time do we
14 have on the record?

15 VIDEOGRAPHER: 4 hours,
16 4 minutes.

17 QUESTIONS BY MR. GADDY:

18 Q. Mr. Barnes, do you understand
19 that when you're giving testimony here in the
20 30(b)(6) capacity, that you will be
21 testifying on behalf of Walgreens?

22 A. I do.

23 Q. And that's been explained to
24 you?

25 A. It has been.

1 (Walgreens-Barnes Exhibit 22
2 marked for identification.)

3 QUESTIONS BY MR. GADDY:

4 Q. I want to show you what I will
5 mark as Barnes Exhibit Number 22 and ask if
6 you'd turn to page 5 of that document.

7 This is plaintiff's second
8 notice of 30(b)(6) deposition, and on page 5
9 we see topics 1 A through G.

10 Do you see that?

11 A. I do.

12 Q. Okay.

13 A. Section 3?

14 Q. Correct.

15 Have you had the opportunity to
16 review this before, or have you seen this
17 before?

18 A. I believe it was presented at a
19 high level to me, but not in the detail.

20 Q. Okay. Reading number 1, it
21 says that you're going to provide testimony
22 on defendant's document retention policy for
23 hard copy and electronic documents, and then
24 it includes a list of what followed under
25 that.

1 Do you see that?

2 A. I do.

3 Q. Okay. Is that your
4 understanding of what you're going to provide
5 testimony on?

6 MS. SWIFT: And I'll just lodge
7 an objection to the extent that your
8 questioning goes beyond the objections
9 that we served on you guys on August
10 31st, and Special Master Cohen's
11 ruling as well.

12 THE WITNESS: Could you repeat
13 your question? I'm sorry.

14 QUESTIONS BY MR. GADDY:

15 Q. Sure.

16 Is that your understanding of
17 what you are to provide 30(b)(6) testimony on
18 here today?

19 MS. SWIFT: Same objection.

20 THE WITNESS: It is. However,
21 she did explain that there were some
22 that were -- objections to? Okay.

23 QUESTIONS BY MR. GADDY:

24 Q. Okay. Are you the person at
25 Walgreens most knowledgeable on the topic of

1 document retention policies?

2 A. I am not.

3 Q. Who would be?

4 MS. SWIFT: Object to the form.

5 THE WITNESS: I believe that
6 would have -- I'm trying to remember
7 who gave me the retention policy.

8 I was presented with three
9 different people who had different
10 specialties, and I believe it was -- I
11 think it was Caitlin that was -- no...

12 MS. SWIFT: If you don't
13 remember, you don't remember.

14 THE WITNESS: I just don't
15 remember. I know I was given -- I
16 believe you have the same cheat sheet
17 list of document -- relevant document
18 retention policies.

19 MR. GADDY: Kate, do you have a
20 copy of this to mark for the record?

21 MS. SWIFT: Yeah. You can mark
22 that one if you want. You can mark
23 the one he's got in front of you.

24 It's up to you. They're all the same.

25 MR. GADDY: Okay.

1 (Walgreens-Barnes Exhibit 23
2 marked for identification.)

3 MR. GADDY: Mr. Barnes, do you
4 mind slapping a sticker on that one
5 you've got in front of you?

6 THE WITNESS: Sure.

7 MR. GADDY: I'm going to mark
8 that as Barnes 23.

9 QUESTIONS BY MR. GADDY:

10 Q. And is this -- this binder with
11 a couple of documents and some loose leaf
12 handouts in it, is that what you were
13 referring to when you were talking about
14 material that's been provided?

15 A. Yes.

16 Q. Okay. Does this have within it
17 the names of the individuals who you met with
18 regarding document retention?

19 A. I don't believe it has their
20 names on it. I wrote the three -- well, I
21 wrote down the three people for my own
22 information --

23 Q. Okay.

24 A. -- because names have always
25 been something for decades that I've

1 struggled with. So I just wanted to make
2 sure I was able to provide the right info.

3 Q. Their names are?

4 A. Chris Kopeck, Caitlin and Adam
5 Rouse. I'm trying to remember Caitlin's last
6 name.

7 MS. SWIFT: Layton.

8 THE WITNESS: Lay -- Lay -- I
9 thought, yeah.

10 MR. GADDY: Layton?

11 MS. SWIFT: Layton.

12 THE WITNESS: Layton.

13 QUESTIONS BY MR. GADDY:

14 Q. And what was Adam's last name?

15 A. Rouse, R-o-u-s-e.

16 Q. You said you spent a couple

REDACTED

REDACTED



REDACTED



REDACTED



REDACTED



REDACTED



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